

**HEALTH CODE STATUTES THAT ALLOW
THE ELEMENTS OF A CRIME TO BE DETERMINED BY RULE**
(Identified by the Administrative Rules Review Committee)

26-21-16. Operating facility in violation of chapter or rules a misdemeanor.

- (1) Any person owning, establishing, conducting, maintaining, managing, or operating a health care facility in violation of this chapter or rules of the committee is guilty of a class A misdemeanor.
- (2) This section takes precedence over Section 26-23-6.

26-23-6. Criminal and civil penalties and liability for violations.

- (1) Any person, association, or corporation, or the officers of any of them, who violates any provision of this chapter or lawful orders, or rules adopted under this chapter by the department:
 - (a) shall be assessed, in a civil proceeding, a penalty not to exceed the sum of \$5,000; or
 - (b) in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for violation of Section 26-23-5.5.
- (2) In addition to any penalties imposed under Subsection (1), the person, association, or corporation, or the officers of any of them is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.
- (3) Assessment or conviction under this chapter or any other public health law does not relieve the person assessed or convicted from civil liability for any act which was also a violation of the public health laws.
- (4) Each day of violation of this chapter or rules adopted by the department under it may be a separate violation.